

# LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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**DATE:** July 8, 2002

**FROM:** JAMES M. RODDY, Executive Officer  
KATHLEEN ROLLINGS-McDONALD, Deputy Executive Officer

**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT: Agenda Item #3: LAFCO #2888:** Reorganization to include Annexations to the City of Hesperia, Hesperia Water District, Hesperia Fire Protection District, and Hesperia Park and Recreation District (Summit Valley Ranch area)

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## **RECOMMENDATION:**

1. Take the following actions with respect to the environmental review for LAFCO 2888:
  - a. Certify that the final environmental impact report (EIR) prepared for the Summit Valley Specific Plan, and the Negative Declaration prepared for the Summit Valley Ranch Annexation pre-zoning by the City of Hesperia has been independently reviewed and considered by the Commission;
  - b. Determine that the final EIR and Negative Declaration prepared by the City are adequate for the Commission's use as a CEQA Responsible Agency for its determinations related to LAFCO 2888;
  - c. Determine that the Commission does not intend to adopt alternatives for this project, and that mitigation measures included in the City's environmental documents are the responsibility of the City, not the Commission.
  - d. Adopt the Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, attached to the staff report.
  - e. Direct the Clerk of the Commission to file a Notice of Determination within five days.

2. Approve LAFCO 2888 – Annexation to the City of Hesperia, and related agencies, subject to the following conditions:
  - a. The City of Hesperia shall adopt the rules and procedures required by the California Land Conservation Act of 1965 (known as the “Williamson Act”), including but not limited to the rules and procedures required by Sections 51231, 51237, and 51237.5 of the Government Code.
  - b. The City of Hesperia shall succeed to the rights, duties, and powers of the County of San Bernardino in regard to administration of Land Conservation Contract #77-526 for Assessor Parcel Numbers 351-141-05, 357-151-03, and 357-331-02.
  - c. The continued overlay of County Service Area 60 (Apple Valley Airport) in accordance with the provisions of Government Code Section 56375(n) and make appropriate findings pursuant to Government Code Section 29210.42.
3. Adopt LAFCO Resolution No. 2746 setting forth the Commission’s terms, conditions, findings, and determinations.

**BACKGROUND INFORMATION:**

Over the last 10 years or so, the staff has worked with the City of Hesperia and property owners of the Summit Valley Ranch to address the future development of this area. Over these years, numerous issues, constraints, delays, and problems have been encountered. This hearing will close, what the staff is sure must be a relief to property owners, the final chapter in their desire for a resolution of governance issues for this specific development project and the Summit Valley area in general.

To establish the background for the current proposal the following description is provided: Approximately a year and half ago, a similar proposal was initiated by the primary property owners, the general partners of Summit Valley Ranch. As the preliminary processing of this application was begun, a number of issues were identified such as boundary concerns, habitat conservation issues, fire protection issues, etc., that would need to be addressed by the Commission. These issues and concerns were being addressed through the various agencies and entities while the environmental review and property tax transfer process were underway. However, the property tax negotiation process between the County and City was not completed due to conflicts on the share of revenues to be transferred to the City. The property owners withdrew the previous application rather than commence the mediation, arbitration, negotiation processes now required under the provisions of Revenue and Taxation Code Section 99. Following the

withdrawal, the City of Hesperia indicated that it would continue to try to resolve the property tax transfer issue with the County and would reinstate the annexation on behalf of the property owners once this hurdle had been cleared. In April 2002, the City submitted the new application following successful discussions with County staff regarding a compromise on the property tax issues.

At the June 19<sup>th</sup> hearing, the Commission was presented with copies of the environmental documents and Specific Plan prepared by the City of Hesperia for the Summit Valley Ranch project, along with copies of the Pre-Annexation agreement and Development Agreement for this project and the environmental documents for the pre-zoning process for the remainder area in preparation for this hearing. In addition, attached to this report are copies of the City's application, the Plans for Service for the City, Hesperia Fire Protection District, Hesperia Water District and the Hesperia Recreation and Park District and the Draft Finding of Fact and Statement of Overriding Considerations. Taken together, these documents leave little additional information to be provided in this report. The balance of this report responds to the Commission's review of the required factors of consideration as outlined in Government Code Section 56668.

### **PROPOSAL SUMMARY:**

The present proposal includes approximately 1,111 +/- acres and is generally located within Sections 23, 25, 26, 34 and 35, Township 3 North, Range 5 West, San Bernardino Base Meridian. The reorganization area is approximately four miles (as the crow flies) east of I-15, and is bisected by Highway 138 in an east-west direction. The proposal generally borders the City of Hesperia boundary in Section 25 (on its eastern edge), and is bordered by parcel boundaries on the south, west and north. This eastern boundary of the proposal area, and its connection to the City of Hesperia, is also the western edge of the development known as Rancho Las Flores. The application has been initiated by resolution of the City Council of the City of Hesperia with the notation of primary landowner consent. No official consent documents have been submitted for the current application, but the previous proposal, LAFCO 2877, possessed better than 80% property owner support.

Existing land uses within the area are essentially vacant with some scattered rural-residential development. Within the 1,111 acres there have been 5 identified dwelling units with an estimated population of 10 persons. Existing land uses to the north and east are essentially vacant, to the south are scattered homes and Forest Service Lands, and to the west is primarily vacant land with some scattered residential uses. The staff has included a map that outlines the topography of this general area. As can be seen from this map, there is a valley floor area along Highway 138, with foothills to the north, and the San Bernardino Mountains to the south. The area is generally located along the north face of the San Bernardino Mountains.

### **BOUNDARY ISSUES:**

LAFCO 2888 is an expansion of the previous application, LAFCO 2877, that addressed 961 acres. The additional 150 acres is located in the eastern portion of the site and was included to provide a clearer boundary definition north of Highway 138 connecting the Summit Valley Ranch Specific Plan and the area of Rancho Las Flores. The expansion of the proposal by the City of Hesperia was at the direction of LAFCO staff to address boundary contiguity concerns, and service issues. The City of Hesperia surveyed the landowners within the area north and south of Highway 138 to request their support for inclusion within the annexation. The area to the south of Highway 138, between the Summit Valley Ranch Specific Plan area and the existing City/District boundaries would not support the annexation; therefore, this area was not included. The staff did receive correspondence from landowners within the expansion area, M. F. and Melba Bond (copy included as a part of Attachment #5) expressing some concern regarding access to their property. A review of this question with City staff indicates that the future development of the roadway systems would be a consideration of the City's future land use reviews for specific subdivisions/development projects.

The staff also sent out notices of the Commission's hearing on this issue to the landowners and registered voters within and surrounding the area as required by law and Commission policy. A landowner adjacent but outside the proposal boundary at the northwest corner of the application submitted a letter requesting inclusion within the current application (copy of letter included as a part of Attachment 5). Staff forwarded a copy of the letter and reviewed this question with City personnel, who indicated that the primary landowner and the City did not wish to further delay the proposal to address this additional area. No development plans are known to exist for the area requesting expansion so that deferral for a separate application would not appear to disadvantage the property owner.

### **LAND USE ISSUES:**

The City of Hesperia has processed a Specific Plan for the development project known as "Summit Valley Ranch" which encompasses 788 acres. It has also processed the required pre-zoning for the 323 acres in the balance of the proposal. Each of these land use decisions are described below.

In October 1997, the City Council of the City of Hesperia adopted the specific plan entitled "Summit Valley Ranch Specific Plan" which includes approximately 788 acres. This Specific Plan anticipates an interim use for the property of a quarry/nursery site. It is intended that this use will accommodate the needs of the Caltrans project to widen and straighten Highway 138 and the needs of the future development projects proposed for the site. The Specific Plan, as adopted, allows for a maximum of 1,688 dwelling units on approximately 281 acres. These uses range from 19 units to the acre (apartments) to single-family residences

(approximately 4 units to the acre). In addition, the Plan envisions a school site, passive and active parks for residents, convenience commercial, office professional uses, a school site, and a golf course/country club facility for a total of 265.5 acres. The balance of the project, approximately 233.1 acres, is intended to remain as natural open space, address major slopes, and provide for the public and private roads.

The territory not a part of the Summit Valley Ranch Specific Plan (approximately 322 acres) has been pre-zoned by the City as "A-1" with a one acre parcel designated C-1 to address an existing restaurant along Highway 138. This designation will allow for 322 dwelling units within the area. The General Plan designation indicates "Special Development" (SD) which will require further study prior to approval of any development application.

Issues:

1. A "Habitat Conservation Plan" (HCP) to be administered by the City of Hesperia is currently being developed cooperatively between the City, Caltrans, Rancho Las Flores, and Summit Valley Ranch. The current status of the development of this HCP for the species within the area is that the City, Caltrans, Rancho Las Flores Limited Partnership and Summit Valley Ranch LLC have entered into an agreement to fund the preparation of the document. Fieldwork, that includes surveys of the site, is underway, pursuant to conversation with City of Hesperia staff, with an anticipated completion date for the overall document of February 2003.

2. Williamson Act Contract lands:

Of the 1, 111 acres within this reorganization proposal, 600 acres are included within an existing Williamson Act Contract (#77-526). Attachment #4 includes a map showing the relationship of the contract area to the proposal boundaries and provides information relative to the contract cancellation process. As a part of the City's land use review, and initiated through the County's Land Use Services Department, was the cancellation of the Williamson Act Contract which overlays this portion of the area. As required pursuant to Government Code Section 56753.5 whenever contract lands are affected by a City annexation, LAFCO is required to contact the California Department of Conservation to request their review and comment. Attached to the staff report is the Department of Conservation response indicating that the City of Hesperia must succeed to the contract and adopt rules and procedures for its administration. As a part of the staff's recommendation, conditions have been proposed which require that prior to issuance of the Certificate of Completion, the City will be required to comply with these requirements. The City's responsibility in this regard will be to administer the cancellation process for the contract area and to take the necessary actions to remove the contract from the affected parcels at the

end of the cancellation period (contract currently scheduled to terminate in December 2006).

**SERVICE ISSUES:**

Existing service needs within the area are minimal due to its vacant and rural nature. The County through its system of county service areas and improvement zones provides existing services, such as fire protection. However, the anticipated development of the area according to the land uses identified within the Specific Plan will require the full range of municipal-level services.

As noted in the Plan for Service submitted by the City of Hesperia, the development of the Summit Valley Ranch Specific Plan, and to a lesser degree the balance of the area, is inextricably tied to the infrastructure development for the Rancho Las Flores project to the east. Water and sewer facilities, development of a fire station facility, the purchase of necessary equipment, and future staffing all will be developed and funded in a cooperative manner between the Rancho Las Flores development and the Summit Valley Ranch development.

1. Water and Sewer Service (provided by the City subsidiary Hesperia Water District):

The development of the water and sewer infrastructure for this area has been addressed in the Specific Plan, the Environmental Impact Report and the Plan for Service submitted for this application, all of which have been provided to the Commission for its information. The portion of the Plan for Service that addresses the provision of domestic water service indicates, "Prior to the development of the residential and commercial portions of the (specific) Plan, a domestic water system will be developed at Rancho Las Flores and extended to Summit Valley Ranch". This portion reemphasizes that the property owner will be required to "dedicate existing water rights to the Hesperia Water District" to provide a portion of the water necessary for the development. As indicated, when the Commission considered the Rancho Las Flores annexation in 1991, these systems would be separate, self-contained and totally self-sufficient. Therefore, in order for Summit Valley Ranch to avail itself of the facilities, financing plans, etc., must be included within the boundaries of the Hesperia Water District.

2. Fire Protection (provided by the City subsidiary Hesperia Fire Protection District):

The County Fire Department has submitted concerns related to detachment of this area from CSA 38 and the further erosion of funding available to CSA 38 to perform its fire function (copy of information included as part of Attachment #5). This concern has been reviewed and the Hesperia Fire Protection District has indicated that an agreement has been signed

between the County and Fire Protection District to specify continuing service relationships in the Summit Valley, Oak Hills, and Spring Valley Lake.

The area of this reorganization is designated as "State Responsibility Area" for wild land fire protection purposes (map included as part of Attachment #5) by the California Department of Forestry. Upon annexation, this designation will be removed and the financial obligation for this type of fire protection will be transferred to the City. The Plan for Service indicates that upon annexation the City and Fire District would contract with the California Department of Forestry for wild land fire suppression services. The current rates for this service are \$7.71 per acre, plus an 11.13% administrative fee. At present, this calculates to a cost of \$9,425 annually, which exceeds the property tax revenues to be transferred from the County fire functions. The Fire District has indicated that the area will be included within its current assessment district that has assessments of \$5.00 per acre, \$14.00 per residence and a sliding scale for commercial properties. The Plan indicates that the revenues from these assessments, coupled with the property tax revenues transferred to the Fire District, are anticipated to remove any negative fiscal impact to the District for this service.

During the processing of the application, LAFCO staff became aware of the existence of an improvement zone to County Service Area 38 in this area. Improvement Zone E of CSA 38 was specifically created for the Summit Valley area through a detachment from the Crest Forest Fire Protection District in 1972 and was authorized a maximum \$1.00 tax rate. Staff reviewed this question with the staff of County Fire and Special Districts who could find no specific reference in their files that this zone ever became officially activated. The staff has included in the findings section of this report a request that the County Board of Supervisors dissolve this agency since it appears to be a "paper district" only.

### **ENVIRONMENTAL ISSUES:**

The response from Tom Dodson and Associates is attached for review, including the required Statement of Overriding Considerations Regarding Environmental Effects From Approval of this Annexation to the City of Hesperia. It is recommended the Commission incorporate the following actions if it wishes to approve this proposal.

1. Certify that the final environmental impact report (EIR) prepared for the Summit Valley Specific Plan, and the Negative Declaration prepared for the Summit Valley Ranch Annexation pre-zoning by the City of Hesperia has been independently reviewed and considered by the Commission;

2. Determine that the final EIR and Negative Declaration prepared by the City are adequate for the Commission's use as a CEQA Responsible Agency for its determinations related to LAFCO 2888;
3. Determine that the Commission does not intend to adopt alternatives for this project, and that mitigation measures included in the City's environmental documents are the responsibility of the City, not the Commission.
4. Adopt the Statement of Findings, Facts, and Overriding Considerations as presented by the Commission's environmental consultant, Tom Dodson and Associates, attached to the staff report.
5. Direct the Clerk of the Commission to file a Notice of Determination within five days.

**FINDINGS:**

The following findings are required to be provided by Commission policy and Government Code Section 56668:

1. The Registrar of Voters Office has determined that the study area is legally uninhabited, containing 6 registered voters, as of April 30, 2002.
2. The study area is within the sphere of influence assigned for the City of Hesperia and its community of special districts.
3. The County Assessor's Office has determined that the assessed valuation of land and improvements within the study area is \$2,414,700 (\$1,734,140 land; \$680,560 improvements).
4. Legal advertisement of the Commission's consideration has been provided through publication in *The Daily Press* and *The Sun*, newspapers of general circulation within the study area. Individual notice has been provided to those individuals and agencies having requested such notification. Also, individual notification to landowners and registered voters within and surrounding the annexation area has been provided as required by State law and Commission policy.
5. The City of Hesperia has processed a General Plan Amendment, Specific Plan/Zone Change and a Zone Change to allow for pre-zoning of the annexation area in its entirety. These land use designations and the City's processing are more fully discussed in the narrative to this report. The designations assigned include PMU (Planned Mixed Use) allowing for the various residential land uses (multi family, single family residential), the convenience commercial, professional office, country club and golf course,



and public parks and school sites. The City of Hesperia Zone Change for pre-zoning, ZC-2001-07 assigned the 323 acres outside the specific plan the following land uses: A-1 for 322 acres allowing for one unit per acre residential development and C-1 for the existing one acre restaurant site. These land uses conform to the General Plan of the City of Hesperia, as modified. Pursuant to the provisions of Government Code Section 56375(e) these zoning designations shall remain in effect for two years following annexation unless specific actions are taken by the City Council. The approved designations included are:

- a. PMU (Planned Mixed Use) which will allow for the residential components of the Summit Valley Specific Plan (SP-91-003). It is anticipated that this Specific Plan could allow 1,668 residential units at full build-out.
  - b. A-1 (Agricultural under the City's general plan designation of "Special Development") allows one unit to the acre. The area assigned this classification represents 322 acres.
  - c. C-1 (Commercial) represents a single parcel along Highway 138 to acknowledge the existing restaurant.
6. The Commission's environmental consultant, Tom Dodson and Associates, has reviewed the City of Hesperia's Initial Study and Negative Declaration (for the 323 acres outside the Summit Valley Ranch Specific Plan) and the Environmental Impact Report and Statement of Overriding Considerations prepared for the Summit Valley Ranch Specific Plan. Mr. Dodson has determined that these documents taken together are adequate for the Commission's review of the proposed annexation as a responsible agency. Copies of the City's environmental documents were presented to the Commission at the June 20<sup>th</sup> hearing.

The necessary actions to be taken by the Commission, as a responsible agency, include the following:

- a. Indicate that the Commission has independently reviewed and considered the environmental assessment, Negative Declaration, Environmental Impact Report and Statement of Overriding Considerations certified by the City of Hesperia.
- b. Determine that these environmental documents are adequate for the Commission's use in making its decision related to the annexation indicating that no alternatives, other than those reviewed by the City, are to be considered and that the mitigation measures identified are the responsibility of the City of Hesperia, and not the Commission, for implementation.

- c. Adopt the Statement of Findings, Facts and Overriding Considerations as presented to the Commission (a part of Attachment 6 to this report).
  - d. Direct the Clerk to file a Notice of Determination within five days and find that no further Department of Fish and Game filing fees are required by the Commission's approval since the City, as lead agency, has paid said fees.
7. Upon annexation, the City and affected agencies will extend their services as required by the progression of development. The financial information portion of the Plans for Service indicates that supplemental funding through the formation of a Community Facilities District, or other similar financing issue, will be required for this project. Through these mechanisms, the Plans state that the level of service will be adequate for the development anticipated and that the revenues to be provided through the financing mechanisms of Summit Valley Ranch and the adjacent development of Rancho Las Flores are anticipated to be sufficient to provide for the infrastructure and ongoing maintenance and operation of the services from the City of Hesperia, Hesperia Water District, Hesperia Fire District and Hesperia Recreation and Park District.
8. The area in question is presently served by the following public agencies:

County of San Bernardino  
County Service Area 38 and its Improvement Zone E (fire protection)  
County Service Area 60 (Apple Valley Airport)  
County Service Area 70  
Mojave Water Agency  
Mojave Desert Resource Conservation District

County Service Area 38, its Improvement Zone E, and County Service Area 70 will be detached upon successful completion of this annexation. Improvement Zone E of CSA 38 was formed in the early 1970s to allow for supplemental funding for fire protection within the Summit Valley area. No such funding has been approved and the improvement zone is in essence a paper district. The staff recommends to County Fire and Special District staff that this improvement zone be dissolved by action of the County Board of Supervisors thereby removing it from the Tax Rolls.

As a condition of approval, County Service Area 60 will be retained overlaying the area. The continued overlay of CSA 60 is appropriate based on the regional nature of its Apple Valley Airport function. This overlay is authorized by Government Code Section 56375(n) if the Commission finds that the continued overlay is justified to help preserve the health, welfare,

and safety of present and future inhabitants of the study area and the region and that it will not affect the ability of the city to provide any service.

None of the other agencies will be directly affected by the completion of this proposal through an adjustment in their boundaries.

9. The annexation proposal complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
10. The City of Hesperia and Hesperia Recreation and Park District have submitted Plans for Service, as required by law and Commission policy (included as a part of Attachment 2). The City's Plan for Service (which addresses service provision by the City, and its subsidiary Fire and Water Districts) outlines that the agencies can provide their services to the area based upon the plans provided within the Summit Valley Ranch Specific Plan. This document also indicates that the extension of service to the reorganization area is tied to the development of infrastructure and services within the area known as Rancho Las Flores, located east, northeasterly of the site. The Plan for Service provided by the Hesperia Recreation and Park District outlines the services to be extended by the district (park and recreation services as well as streetlighting and public landscaping). The Plan provided by the District indicates "parks, open space, trails, street lights and other required infrastructure will be provided by the developer using agreed upon program between City and developer." The Park District indicates that it will include the areas of the Summit Valley Ranch Specific Plan within existing assessment districts for ongoing maintenance and operations.
11. Comments from landowners and affected local agency have been reviewed and considered by the Commission in making its determinations.
12. The study area can benefit from the availability of municipal-level services from the City of Hesperia.
13. This proposal will assist the City's ability to achieve its fair share of the regional housing needs upon development of the residential portions of the project. The interim use anticipated to be a nursery/quarry would have no impact on the City's regional housing need due to its industrial use.
14. The County of San Bernardino and the City of Hesperia have successfully negotiated a transfer of property tax revenues that will take effect upon completion of this annexation. This negotiated agreement fulfills the requirements of Section 99 of the Revenue and Taxation Code.

15. Maps and legal descriptions, as revised, are in substantial compliance with LAFCO and state standards through certification by the County Surveyor's Office.

**CONCLUSION:**

The policy standards developed by the Commission point toward the approval of this proposal. These policies are:

- ❑ Urban level development should be included within a municipal service provider;
- ❑ The plans developed for this project require the reliance upon facilities which are being developed within the City and its subsidiary districts to the east, therefore, this project should be included within the boundaries of these agencies to assure fair share financing; and
- ❑ The area has been a part of the sphere of influence of the City and its related special districts since 1989.

Based upon these elements of review, the staff is recommending that the Commission approve the proposal by taking the actions listed under the recommendation section.

JMR/KRM

Attachments:

- 1 -- Location, area and topographic maps of proposal
- 2 -- City Application, Plans for Service
- 3 -- Specific Plan map and excerpt from Text
- 4 -- California Department of Conservation Response and Williamson Act Contract Information
- 5 -- Landowner, Agency Comments Received
- 6 -- Tom Dodson and Associates Response and Statement of Findings, Facts, and Overriding Considerations
- 7 -- Draft LAFCO Resolution No. 2746